

MIP

# UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAYORGA-Diaz, Marcos

Defendant,

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIAMagistrate Docket No. 08 MJ 1382Case No. 08 MAY -2) AM 9:42

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326

Deported Alien Found in the United States

(Felony)

The undersigned complainant, being duly sworn, states:

On or about April 3, 2008, within the Southern District of California, Defendant Marcos MAYORGA-Diaz, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

*Michael Haynes*  
Special Agent Michael Haynes  
U.S. Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2<sup>nd</sup> DAY OF MAY 2008.

*Nita L. Stormes*  
Hon. Nita L. Stormes  
U.S. Magistrate Judge

**PROBABLE CAUSE STATEMENT**

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I, Special Agent Michael Haynes, U.S. Immigration & Customs Enforcement ("ICE"), declare under penalty of perjury, the following is true and correct:

Marcos MAYORGA-Diaz came to my attention during the course of my official duties. Through a review of automated records and documents from MAYORGA's alien file, I determined that he is a native and citizen of Mexico, and that he was most recently deported from the United States to Mexico on June 12, 2007, through the port at San Ysidro, California.

During this review of records, I observed an immigration judge's order of deportation dated October 27, 2005, and a form I-205 (Warrant of Deportation/Removal) certifying MAYORGA's physical removal from the United States on June 12, 2007, pursuant to the immigration judge's order. I additionally observed a form I-213 (Record of Deportable/Inadmissible Alien) that identifies MAYORGA as a native and citizen of Mexico, born February 12, 1982. Photographs and fingerprints taken by U.S. immigration officers in preparation for MAYORGA's deportation were additionally part of this review of records.

I found no indication during my review of records that MAYORGA had applied for or received permission to return to the United States lawfully after deportation.

In my effort to determine whether MAYORGA had returned to the United States after deportation, I discovered that he had been encountered by Officers Hall and Roth of the San Diego Police Department on the morning of April 3, 2008, within the city of San Diego, California. These officers identified MAYORGA by name, date and place of birth. He was subsequently identified by local law enforcement through biometric evaluation of his fingerprints.